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OCTOBER 25, 1990BOSTON REDEVELOPMENT AUTHORITY

FIRST AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF B'NAI B'RITH SENIOR CITIZENS HOUSING CORPORATION FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A CHARITABLE CORPORATION ORGANIZED PURSUANT TO M.G.L., C. 180 AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT CHARITABLE CORPORATION UNDER SAID CHAPTER 121A.

A. Prior Proceedings. Reference is made to the following:

1. On May 22, 1980, the Boston Redevelopment Authority (the "Authority") voted to adopt a Report and Decision (the "Report and Decision") on a project known as B'nai B'rith Senior Citizens Housing Corporation (the "Project"). Such vote was approved by the Mayor of the City of Boston on June 4, 1980 and the vote as approved was filed with the Clerk of the City of Boston on June 6, 1990. The Project, as more particularly described in the Report and Decision, consisted of the construction, operation and management of a 9-story structure containing 150 units of rental housing for the elderly financed under the federal Department of Housing & Urban Development ("HUD") Section 202 Program ("HUD 202 Program") with a related surface parking lot for 40 vehicles.

2. On October 14, 1980, a certain Regulatory Agreement under Chapter 121A, Section 18C, was executed by and between B'nai B'rith Senior Citizens Housing Corporation, a Massachusetts non-profit corporation and the designated 121A entity in the Report and Decision, and the Authority (the "Regulatory Agreement").

3. On April 30, 1981, a certain agreement under Chapter 121A, Section 6A, was executed by and between B'nai B'rith Senior Citizens Housing Corporation and the City of Boston (the "6A Contract").

Capitalized terms not defined herein shall have the meanings as set forth in the Report and Decision. The B'nai B'rith Senior Citizens Housing Corporation shall hereinafter be referred to as both the "Applicant" and the "Corporation."

B. Application for First Amendment. On April 11, 1990, the Applicant filed with the Authority a certain application, dated March 29, 1990, to amend for the first time the Report and Decision. Approval was requested for changes to the Project's existing structure and related land, including specifically the construction of an additional 50 rental housing units for the elderly (38 one bedroom units and 12 efficiency units) under the HUD Section 202 Program within the existing Project Area, as described in the Report and Decision. The boundaries of the Project Area would not be altered, but a 9-story extension of

the existing structure would be constructed over an existing surface parking lot to accommodate the 50 additional units. Enclosed parking for 20 vehicles would be provided on the ground level of the new extension with an additional 33 spaces in the adjacent reconfigured surface parking area. The total number of elderly units would be increased from 150 to 200 and the on-site parking would be increased from 40 to 53. On June 29, 1990, the Applicant submitted a further amendment to its initial application. By this amendment, all references to a proposed leasing arrangement with a new but affiliated 121A entity, "B'nai B'rith Senior Citizens Housing Corporation II," were deleted. The Applicant would finance and construct the new structure and own and operate the expanded Project. In addition, approval was requested for certain changes to the 6A Contract. The following plans were also filed: a plan entitled "Building Plans and Elevations" and dated June 26, 1990, and one entitled "B'nai B'rith Alternative Parking Plan" and dated July 23, 1990. For the purposes of this document, the "Application for the First Amendment" shall consist of collectively the March 29 and June 29, 1990 submissions along with the referenced plans. The Application for the First Amendment is incorporated as a part hereof by reference.

C. Public Hearing. On August 15, 1990, a public hearing was held by the Authority to consider the Application for the First Amendment to the Report and Decision. The public hearing was required in accordance with the Authority's "Rules and Regulations Governing Chapter 121A Projects in the City of Boston," as amended, since, as determined by the Authority's Chief General Counsel, the proposed changes to the Project constituted in their entirety a "fundamental change" under Chapter 652 of the Acts of 1960 ("Chapter 652"), Section 13A, as amended. Various individuals testified at the hearing in support of the expansion of the Project and no one appeared in opposition. The Minutes of the Authority's August 15, 1990 meeting contains a list of those who testified at the hearing and such minutes are incorporated as a part hereof by reference.

D. Authority Action. In acting hereunder, the Authority has considered the Application for a First Amendment itself, all documents and exhibits filed therewith or referred to therein, the testimony at the public hearing and all plans presented thereat, sufficient in the Authority's judgment to enable it to act hereunder.

E. Decision. The Authority hereby acts as follows:

1. Approval. The Application for the First Amendment is hereby approved and the Report and Decision is hereby amended only to the extent as specifically hereinafter set forth. If there is an inconsistency or conflict between the terms of the Application for the First Amendment and this document (the "First Amendment"), those of this First Amendment shall govern.

2. General Findings and Determinations. The Authority hereby finds and determines that: (a) the changes to the Project

as approved in this First Amendment do constitute a "fundamental change" in accordance with Chapter 652, Section 13A, as amended; (b) except to the extent inconsistent with or contrary to the provisions of this First Amendment, all of the findings, determinations, approvals and consents contained in the original Report and Decision, including specifically those zoning deviations referenced in Section J of, and set forth in Exhibit A to, the original Report and Decision, are hereby ratified and confirmed in all respects; (c) this First Amendment conforms to and complies with the provisions of Chapter 121A of the General Laws, as amended ("Chapter 121A"), Chapter 652, and the Authority's "Rules and Regulations Governing 121A Projects in the City of Boston," as amended; and (d) any procedural or other requirements of applicable statutes and rules and regulations which may not have been complied with in the Application for the First Amendment or the Authority's proceedings in connection therewith are hereby waived.

3. Changes to Project. The Authority hereby amends the description of the Project in the Report and Decision as follows. The "Project" will include the construction on the existing surface parking lot within the "Project Area" of a new 9-story extension to the existing 9-story structure which will contain approximately 50 units of leased housing for the elderly with approximately 38 one-bedroom and 12 efficiency units. On the ground level of the new 9-story extension, there will be 20 enclosed parking spaces with 33 spaces on the reconfigured surface parking area to meet the needs of the expanded facility. The "Cost of the Project" will be revised to include the cost of the new 9-story structure and related amenities, i.e., \$3,732,000 as set forth in the Application for the First Amendment and such additional amounts as may be required to complete construction of the Project's expansion under the HUD Section 202 Program.

4. Environmental Considerations. Pursuant to provisions of Section 61 of Chapter 30 of the General Laws, as amended, the Authority hereby finds and determines that the Project as changed by this First Amendment will not result in any significant damage or impairment of the environment and further finds and determines that all practicable and feasible means and measures will be utilized to avoid or minimize damage to the environment. The construction of the 9-story extension will result in the addition of 13 off-street parking spaces for a total of 53 spaces, 20 of which will be located on ground level under the proposed extension. The raising of the 9-story extension to accommodate the additional parking spaces enables the Corporation to minimize the impact of on-street parking demand in the adjacent neighborhood.

5. Zoning Code Deviations. Appendix 10 to the Application for the First Amendment lists certain additional zoning code deviations requested. For the reasons set forth in the Application for the First Amendment and the evidence presented at the public hearing, the Authority finds that the deviations attached hereto and incorporated as a part hereof by reference in

Exhibit "A" are necessary for the carrying out of the total Project and are therefore granted without substantially derogating from the intent and purposes of the applicable law, codes, ordinances, and regulations respectively.

6. Rules and Regulations. Notwithstanding the minimum standard for financing, construction, maintenance and management of the original Project and any other rules and regulations, as set forth or referred to in Section I of the original Report and Decision, the Authority hereby imposes as additional rules and regulations on the Project as changed by this First Amendment and requires the Corporation, prior to filing an application with the Inspectional Services Department of the City of Boston for any building permit, to: (a) enter into an Amendment to the 6A Contract or an Amended and Restated 6A Contract, the terms and conditions of which shall be acceptable to the Commissioner of Assessing of the City of Boston; (b) enter into an Amendment to Regulatory Agreement or an Amended and Restated Regulatory Agreement the terms and conditions of which are acceptable to the Authority's Director; (c) submit to the Authority for its review and approval all plans and specifications for the Project changes, as authorized by this First Amendment, and accept such revisions and modifications as the Authority's Design Review staff may in its discretion impose; and (d) the use of the Project for elderly housing shall not be changed or altered in any respect without the approval of the Authority.

7. Report and Decision. All provisions of the original Report and Decision that are not specifically amended or revised by, or inconsistent with, this First Amendment shall remain in full force and effect.

F. Severability. In the event any provision of this First Amendment shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

EXHIBIT "A"

Below are the sections of the Boston Zoning Code, as amended ("Zoning Code"), from which permission to deviate was sought by the Applicant as part of the Application for the First Amendment. Approval of such deviations are indicated under the heading, "Deviation Granted":

1. Section 14.2, Lot Area per Dwelling Unit and Section 13.1, Table B, Dimensional Requirements

Required: 5,000 square feet minimum lot size, 1,000 square feet each additional unit.

Existing Project: 150 units in zones H-1 and L-1, 59,151 square feet in total (39,000 square feet in H-1 and 20,151 square feet in L-1). Deviation granted in original Report and Decision (Section J thereof and Exhibit A thereto) permitted reduction in Lot Area per Dwelling Unit to 350 square feet all as more fully shown on a certain site plan of Larking, Glassman and Prager, Architects, dated November 26, 1979 referred to therein (hereinafter the "Original Plan").

Calculations based on both zones:

H-1 Zone:	<u>39,000</u>	approximate square feet	
	69	dwelling units	
	<u>34,000</u>	sq. ft.	
	68	dwelling units =	500 sq. ft. for each additional dwelling unit.

L-1 Zone:	<u>20,000</u>	sq. ft.	
	81	dwelling units =	247 sq. ft. for each additional dwelling unit.

Proposed: Additional 50 units in zone H-1, for total of 200 units in zones H-1 and L-1. Requested that Lot Area per Dwelling Unit be reduced to 295 square feet all as more fully shown on a certain site plan of J.W. French Associates, Architects submitted to the Authority (hereinafter the "New Plan").

Calculations based on both zones:

H-1 Zone:	<u>39,000</u>	approximate square feet	
	119	dwelling units.	
	<u>34,000</u>	sq. ft.	
	118	dwelling units =	288 sq. ft. for each additional dwelling unit.

L-1 Zone:	<u>20,000</u>	sq. ft.	
	81	dwelling unit =	247 sq. ft. for each additional dwelling unit.

Deviation

Granted:

Additional deviation reducing Lot Area per dwelling unit from 350 square feet to 295 square feet.

2. Section 15-1 Floor Area Ratio, Section 13, Table B, Dimensional Requirements

Required: FAR = 1

Existing

Project:

137,588	approximate total sq. ft. building	
59,151	approximate total sq. ft. land	= 2.33

Calculations based on both zones:

H-1 Zone:	51,460	approximate sq. ft. building in H-1 zone	
	39,000	approximate sq. ft. land in H-1 zone	= 1.32

L-1 Zone:	92,870	approximate sq. ft. building in L-1 zone	
	20,000	approximate sq. ft. land in L-1 zone	= 4.64

<u>Proposed:</u>	137,588	Existing	
	32,536	Additional	
	170,124	approximate total sq. ft. in bldg.	
	59,151	approximate total sq. ft. land	= 2.88

Calculations based on both zones:

H-1 Zone:	83,996	approximate sq. ft. building in H-1 Zone	
	39,000	approximate sq. ft. land in H-1 zone	= 2.15

L-1 Zone:	92,870	approximate sq. ft. building in L-1 zone	
	20,000	approximate sq. ft. land in L-1 zone	= 4.64

Deviation

Granted:

Additional deviation increasing Floor Area Ratio from 2.33 to 2.88.

3. Section 16-1, Maximum Height of Buildings, Section B, Table B, Dimensional Requirements

Required: H-1 no requirement
L-1 3 stories-35 feet.

Existing

Project:

9 stories approximately 86 feet.

Proposed:

9 stories approximately 86 feet.

Deviation

Granted:

Deviation ratified and confirmed in accordance with Section E(2)(b) of the First Amendment to Report and Decision.

4. Section 17-1, Minimal Usable Open Space, Section 13, Table B, Dimensional Requirements

Required: 400 sq. ft. per dwelling unit.

Existing Project: $\frac{19,600}{150}$ approximate total usable open space units = 125 sq. ft. usable open space per dwelling unit.

Calculations based on both zones:

H-1 Zone: $\frac{9,300}{69}$ approximate = 130 sq. ft. usable open space per dwelling unit.

L-1 Zone: $\frac{10,300}{81}$ approximate = 120 sq. ft. usable open space per dwelling unit.

Deviation granted for Existing Project reduced minimum usable open space per dwelling unit to 125 sq. ft.

Proposed: $\frac{15,600}{200}$ approximate total usable open space units = 78 sq. ft. usable open space per dwelling unit.

Calculations based on both zones:

H-1 Zone: $\frac{5,300}{119}$ approximate usable open space unit = 45 sq. ft. usable open space per dwelling unit.

L-1 Zone: $\frac{10,300}{81}$ approximate usable open space unit = 120 sq. ft. usable open space per dwelling unit.

Deviation

Granted: Additional deviation reducing Usable Open Space per dwelling unit from 125 sq. ft. to 78 sq. ft.

5. Section 18-2, 18-4, Front Yards; Section 13.1, Table B, Dimensional Requirements; Section 19-6, Other Provisions - Corner Lots

Required: Lesser of 20 feet or conformity with existing building alignment (predominant modal front yard)

Washington Street:

Predominant Modal Front Yard = 5 feet or less. Property need only conform to predominant modal front yard.

Egremont Road:

No predominant modal front yard.

Per Section 19-6, 20 foot setback required in L-1 Zone, 10 foot setback required in H-1 zone.

Existing 20 feet along Washington Street
Project: 15 feet along Egremont Road

Deviation granted reduced minimum front yard to twenty feet. (Unclear why deviation needed for Washington Street.) Inadequate front yard along Egremont Road was addressed in existing 121A contract as a side yard.

Proposed: 20 feet along Washington Street
15 feet along Egremont Road

Deviation
Granted: Retroactive deviation reducing required front yard along Egremont Road in L-1 Zone to 15 feet.

6. Section 19, Side Yards; Section 13.1, Table B, Dimensional Requirements

Required: 10 ft. plus the length of the building wall parallel to the lot line divided by 20.

Existing Formula requires 10 ft. plus $\frac{167}{20}$ length of wall
Project: = 18.4

Deviation granted Report and Decision reduced minimum side yard to less than two feet all as more fully shown on the Original Plan.

Proposed: Formula requires 10 ft. plus $\frac{239}{20}$ length of wall = 21.95

Deviation
Granted: Side yard reduction to less than two feet as shown on the New Plan and on the Original Plan continue in effect, notwithstanding increase in length of building wall.

7. Section 21-1, Setback of Parapet; Section 13.1, Table B, Dimensional Requirements

Required: Height above (height at which no setback is required), plus the length of the building wall parallel to the lot line, divided by six (6) less one-half of the street width.

Existing Egremont Road $(46 + 167) / 6 - 20 = 15.5$ feet
Project: Opposite Side $(46 + 167) / 6 - 20 = 15.5$ feet

Deviation granted under code prior to April, 1987 amendment permitted 15' setback on Egremont Road and less than 2' setback from opposite side.

Proposed: Formula requires the following setbacks:

Egremont Road: $(46 + 239) / 6 - 20 = 27.5$ feet
Opposite Side: $(46 + 239) / 6 - 20 = 27.5$ feet

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Granted:

Permitted setback of parapet remain at 15 feet along Egremont Road and less than two feet along opposite side notwithstanding increase in building length.

Unless specifically granted above, no other deviations from the Zoning Code were granted as part of the First Amendment to the Report and Decision.

MEMORANDUM

OCTOBER 25, 1990

TO: BOSTON REDEVELOPMENT AUTHORITY and
STEPHEN COYLE, DIRECTOR

FROM: THOMAS O'MALLEY, ASSISTANT DIRECTOR
ANTONIO TORRES, DEPUTY DIRECTOR
AARON SCHLEIFER, HOUSING ANALYST
NEIGHBORHOOD HOUSING & DEVELOPMENT

KEVIN MORRISON, DEPUTY GENERAL COUNSEL
OFFICE OF GENERAL COUNSEL

SUBJECT: FIRST AMENDMENT TO REPORT AND DECISION ON THE B'NAI
B'RITH SENIOR CITIZENS HOUSING CORPORATION CHAPTER 121A
PROJECT ("B'NAI B'RITH PROJECT")

EXECUTIVE

SUMMARY: Request adoption of a First Amendment to the Report and Decision on the B'nai B'rith Project (the "First Amendment") which involves in part the expansion of the existing 150 unit elderly housing development to 200 units and the granting of certain deviations from the Boston Zoning Code.

Project Background

On August 15, 1990, the Authority, after a public hearing on the Application for a First Amendment to Report and Decision on the B'nai B'rith Project, adopted an initial vote to authorize an amendment. Presented herewith is the formal First Amendment for final adoption by the Authority. This amendment includes a description of the approved changes to the project and authorizes the granting of certain deviations from the Boston Zoning Code in order to facilitate construction.

First Amendment

The First Amendment authorizes an expansion of the existing project from 150 to 200 units of elderly leased housing to be financed under the Department of Housing & Urban Development's Section 202 Program ("HUD Section 202 Program"). The plans for the expansion call for the construction of a 9-story extension to be built in part over an existing surface parking lot. The total parking spaces for the project will not be reduced but rather increased from 40 to 53. Of that total, 20 spaces will be within the ground level of the extension and the remaining 33 on an adjacent reconfigured surface lot. The anticipated financing for the extension and related amenities is \$3,732,000 or such additional amount as may be required to complete construction under the HUD Section 202 Program. No specific changes to the existing 6A Contract for this project have been authorized, but the B'nai B'rith Senior Citizens Housing Corporation is required

to enter into an Amendment to the 6A Contract, the terms and conditions of which are acceptable to the City's Commissioner of Assessing.

The Office of General Counsel determined that the Project changes constituted a "fundamental change" in accordance with the Acts of 1960, Chapter 652, Section 13A, as amended ("Chapter 652"). Thus, a public hearing was required on the amendment application.

The requirements of Chapters 121A and 652 have been met and it is recommended that the Authority adopt the First Amendment to the Report and Decision as presented herewith.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled "FIRST AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF B'NAI B'RITH SENIOR CITIZENS HOUSING CORPORATION FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.), CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A CHARITABLE CORPORATION ORGANIZED PURSUANT TO M.G.L. C. 180 AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT CHARITABLE CORPORATION UNDER SAID CHAPTER 121A," be and hereby is approved and adopted.

